

**Report on the  
Limited Public Financing System  
for Candidates for Statewide Office in the 1998  
Election**

January 29, 1999

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## CONTENTS

I.	Introduction .....	1
II.	Historical Overview .....	3
III.	Statutory Responsibilities .....	4
IV.	The State Election Campaign Fund .....	5
V.	A Brief Description of the 1998 Program.....	6
VI.	The Primary Election .....	7
VII.	The General Election .....	12
VIII.	Conclusion .....	17

## I. Introduction

*“On or before January thirtieth of any year next following a year in which elections are held for statewide elective office, the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section three of chapter fifty-five....” [M.G.L. c.55A, s.3]*

To the Clerk of the Senate and the Commission to Select the Director of Campaign Finance:

In accordance with Massachusetts General Laws Chapter 55A, Section 3, I hereby submit this report summarizing the Commonwealth’s system of limited public financing of campaigns for statewide elective office during the 1998 election.

Chapter 774 of the Acts of 1975 established the public financing system in Massachusetts by creating the State Election Campaign Fund (SECF) and outlining the statutory responsibilities of the five agencies involved in administering the system. The system has been modified over the years, most recently by Chapter 43 of the Acts of 1994. This report outlines the functions of each agency and specifies the funding made available to and received by each participating candidate.

As is noted in the following report, 1998 was a year of mixed results for the public financing system. While a record \$1.7 million was made available and distributed to candidates, that amount was far less than what was needed to fully fund the program. No candidate received the full amount to which he or she would have been entitled under statute due to limited funding. In fact, many candidates received no money at all, despite having taken the required pledge to observe spending limits in return for eligibility for public funds. Despite such obstacles, the public financing system was implemented in a professional and efficient manner.

The smooth performance of the public financing system during the 1998 election was due in large part to the coordination between the Office of Campaign and Political Finance (OCPF), the Office of the Secretary of the Commonwealth, the Department of Revenue, the Office of the Comptroller, and the Office of the Treasurer and Receiver General. The work of each of these agencies contributed to the system’s effectiveness and, therefore, each deserves recognition for its efforts.

The Elections Division of the Secretary's office was particularly helpful with its early certification of the names of candidates. The Comptroller's office and the Treasurer's office deserve special mention for their assistance in processing the payment of public funds to candidates. OCPF would like to acknowledge the professionalism and cooperation shown by each of these agencies during the past election season.

In particular, I would like to thank Paul Naves of the Department of Revenue, Kyle Keady of the Treasurer's office and John Cloonan of the Elections Division for their efforts and cooperation. A special thanks goes to Kathy Still of the Comptroller's office for lending her expertise and help. Ms. Still's prompt allocation and subdivision of funds from the SECF ensured that candidates were certified and received public funds on schedule.

An extra word of thanks also goes out to the candidates and the political committees, who cooperated with this office by making early submissions of qualifying candidate statements and made our task of certification that much easier.

I would be remiss if I did not note that there are major changes ahead for public financing in Massachusetts. The approval of Question 2, the Clean Elections initiative, by voters on Nov. 2, 1998, means the potential for significant expansion of public financing and the end of the system that is the subject of this report. An appraisal of the Clean Elections program is clearly a discussion that is best left for a later date. For now, this report is intended to serve as the postscript on a system that has been in place, in one form or another, for two decades.

Respectfully submitted,

Michael J. Sullivan  
Director  
Office of Campaign and Political Finance

January 29, 1999

## II. Historical Overview

Chapter 774 of the Acts of 1975 established the public financing system for statewide candidates in Massachusetts, which was one of the first such programs in the nation. Modeled in some aspects on the federal systems of financing presidential candidates, the Commonwealth's system offered limited (i.e., partial) funds to candidates for the six statewide "constitutional" offices: Governor, Lieutenant Governor, Attorney General, Treasurer and Receiver General, Secretary of the Commonwealth, and Auditor. The funds were provided from voluntary contributions by state income tax filers.

The system got its first application in the 1978 election, when a total of \$175,161 was available for distribution. The amount available for the 1982 election was significantly higher, as the fund was increased by four years of contributions.

### **Amount Available for Disbursement State Election Campaign Fund 1978-1998**

<i>Year</i>	<i>Amount</i>
1978	\$ 175,161.00
1982	679,930.19
1986	888,498.25
1990	450,003.85
1994	358,438.01
1998	1,753,463.36

The number of candidates who received money has varied over the years, depending on such factors as the candidates themselves, their particular circumstances and the changing criteria for receiving funds. For example, in 1998 candidates for governor were eligible to receive full funding before any other candidates received any funds.

### **Candidates' Eligibility for and Receipt of Public Funds 1978-1998**

Year	<i>Primary</i>		<i>General</i>	
	Eligible for funds	Received funds	Eligible for funds	Received funds
1978	22	12	10	8
1982	12	12	16	3
1986	11	9	10	10
1990	17	15	14	8
1994	19	10	16	8
1998	13*	4	7	5#

\* Denotes candidates who agreed to observe spending limits in 1998, a new requirement for receiving public funds. Two candidates of the 13 candidates in the primary total ultimately did not receive enough signatures to qualify for the primary ballot.

# The two who did not receive funds included one candidate for treasurer who did not submit any qualifying contributions and a candidate for lieutenant governor who had agreed to spending limits and did not receive funds directly, but benefited from funds were released to his candidate team.

The 1998 election seems anomalous in the charts above, due largely to two changes in the law that were made in 1994 and took effect in January 1995. Those changes included a switch in the funding mechanism that increased funds available for 1998 and a change in the eligibility requirements for public funding that required candidates to agree to statutory spending limits for the first time. The changes, and other features of the change in the law, are discussed in more detail below.

### **III. Statutory Responsibilities**

As mentioned above, the public financing system was administered due to the efforts of five state agencies.

The Treasurer is responsible for the management and investment of the State Election Campaign Fund as well as the disbursement of any funds to certified candidates. Funds collected by the Department of Revenue through state income tax returns have provided the sole source of revenue for the SECF. Since Tax Year 1994, the funding mechanism has been a voluntary “check-off” of \$1 (\$2 for joint filers) on each state income tax return, which does not affect a filer’s tax liability. From 1976 to 1993, the funding was by an “add-on” system, by which taxpayers could contribute to the SECF by adding \$1 to their tax liability (\$2 for joint filers).

On June 30 of each year in which elections are held for the six statewide offices, the Comptroller determines the balance in the SECF and the Treasurer is required to make all invested funds available for immediate withdrawal. This balance represents the total funds that are available for public financing in that election year. M.G.L. Chapter 10 required that starting in 1998 the Comptroller divide the SECF on a 50/50 basis, with half available for the Primary Election Account and half available for the General Election Account.

On or before the eighth Tuesday before the primary, the Secretary must certify to the Director of OCPF the names of those candidates who qualify for the primary ballot and who are opposed by one of more candidates. Once the Secretary has certified the names to the Director, the Comptroller subdivides the Primary Election Account into accounts for each candidate, based on a formula provided for by M.G.L. Chapter 55A.

A change in the law that was enacted in 1994 but first took effect in the 1998 election called for candidates for governor to receive full funding first, then for candidates for the other five statewide offices to receive money, based on availability. For example, the Primary Election Account would first be divided to allow each certified gubernatorial candidate to receive the full primary share of \$750,000, or as close to that amount as possible if there were not enough money

to do so. If there was any money left over, it would be divided proportionately among other certified candidates.

The Director of OCPF is responsible for certifying to the treasurer that each candidate has met the statutory obligations necessary to receive the public funds.

## **IV. The State Election Campaign Fund**

The sole source of funding for limited public financing in Massachusetts, the State Election Campaign Fund was established under M.G.L. Chapter 10, Section 42. Under Section 42, taxpayers may direct \$1 of their tax liability on their annual income tax returns to the SECF (\$2 for joint returns). Such a designation does not increase a filer's tax liability and does not decrease the amount of a refund.

Throughout its history, the fund has been hindered by limited participation by taxpayers. In the 1976 to 1993 tax years, when designating money to the SECF meant a \$1 or \$2 increase in tax liability, less than 5 percent of filers contributed. The switch to a check-off in 1994 meant a substantial increase, as illustrated by the following chart.

**State Election Campaign Fund  
Taxpayer Participation Rates and Amounts Collected**

<i><b>Tax Year</b></i>	<i><b>Number of donations</b></i>	<i><b>Participation rate</b></i>	<i><b>Amount collected</b></i>
1993*	42,587	1.5	56,648
1994	284,630	9.6	400,407
1995	238,784	8.3	339,567
1996	291,747	9.6	417,424
1997	317,576	10.1	446,220

\*1993 was the last tax year in which contributions to the SECF increased tax liability by \$1 (or \$2 for a joint return). The next year marked the start of the check-off that did not affect tax liability.

Despite the increase in participation, the public financing system was still underfunded for the 1998 election. A total of \$1,753,463.36 was available as of the cutoff date of June 30, 1998; the Commonwealth was not able to provide the full statutory amounts of matching funds to all candidates who had agreed to observe spending limits in return for public money. In fact, as noted later in this report, many candidates agreed to limits only to receive no money at all.

## V. A Brief Description of the 1998 Program

The limited public financing system used in 1998 was unlike those that came before it in several significant ways. That was due to changes that were enacted several years before the election, in Chapter 43 of the Acts of 1994.

Among the changes contained in Chapter 43, which took effect in January of 1995, were:

- ?? The introduction of statutory spending limits for each statewide race, which candidates were required to agree to in order to be eligible for public funds.
- ?? A change in the mechanism for distribution of funds to allow gubernatorial candidates to be funded first, to the fullest extent allowed by available funds.
- ?? A change in the funding mechanism for the State Election Campaign Fund, from an “add-on” donation on state income tax returns to a check-off that did not increase a filer’s obligation.
- ?? A change in the division of the State Election Campaign Fund from a 60/40 split between the primary and general election accounts to an even 50/50 split.

In previous years, matching funds were available to statewide candidates, but without any accompanying limit on spending. In 1998, candidates could only receive funds if they agreed to observe limits for both the primary and general elections. The limits varied according to the office sought:

	<u>Primary</u>	<u>General</u>	<u>Total Limit</u>
Governor	\$1,500,000	\$1,500,000	\$3,000,000
Lt. Governor	625,000	*	625,000
Attorney General	625,000	625,000	1,250,000
Secretary of State	375,000	375,000	750,000
Treasurer	375,000	375,000	750,000
Auditor	375,000	375,000	750,000

In return for agreeing to limits, candidates who had opposition were eligible to receive money for both the primary and, if they were successful in the primary, the general election. The amounts for which they were eligible were equal to half of their statutory spending limits:

	<u>Primary</u>	<u>General</u>	<u>Total</u>
Governor	\$ 750,000	\$ 750,000	\$1,500,000
Lt. Governor	312,500	*	312,500
Attorney General	312,500	312,500	625,000
Secretary of State	187,500	187,500	375,000
Treasurer	187,500	187,500	375,000
Auditor	187,500	187,500	375,000

\* Because the nominees for governor and lieutenant governor run as a “candidate team” after the primary, they are both included in the gubernatorial candidate’s general election spending limit and maximum matching funds amounts.



For example, participating gubernatorial candidates were limited to expenditures of \$1.5 million for the primary campaign (June 3-Sept. 15) and \$1.5 million for the general election campaign (Sept. 16-Nov. 3). In return, those candidates were eligible for up to \$750,000 in matching funds for each of the two periods, for a total of \$1.5 million.

To become eligible to receive public funds, candidates filed reports listing contributions received that qualified under the matching funds formula, in amounts depending on the office sought. Qualifying contributions included only the first \$250 of individual contributions received during 1997 and 1998 and deposited into a candidate's depository bank account. Candidates also were required to obtain a bond for the amount they received from the SECF and were subject to penalties if they misused public funds. Matching funds were wired into a candidate's designated depository account and, like all campaign receipts and expenditures, were noted in the regular disclosure reports filed on behalf of candidates and committees.

## **VI. The Primary Election**

### **Spending Limit Declarations**

The first deadline for candidates concerning the public financing system for 1998 was June 2, the same day completed nomination papers were due with the Elections Division of the Secretary of the Commonwealth.

On or before that date, a total of 20 candidates who were seeking their parties' nomination for statewide office filed statements saying whether they intend to limit their spending in the 1998 primary and general elections. Because 1998 was the first election that featured spending limits, this was the first declaration of its kind. Failure to file would have meant a candidate could not be on the primary ballot; due to coordinated advance notification by both OCPF and the Elections Division, however, every candidate filed form CPFA 20: Statement on Campaign Expenditure Limits – Primary and General Campaign.

Of the 20 candidates that filed, 13 agreed to abide by spending limits, which were binding for both the primary and general elections.

**Participation in Public Financing**  
**1998 Statewide Candidates**  
*(based on June 2 filings)*

<b><i>Office/limit</i></b>	<b><i>Agreed to limits</i></b>	<b><i>Did not agree</i></b>
<b>Governor</b> (\$1.5 million primary/ \$1.5 million general*)	Brian Donnelly ( D ) Scott Harshbarger ( D ) Joseph Malone ( R ) Patricia McGovern ( D )	Paul Cellucci ( R )
<b>Lieutenant Governor</b> (\$625,000 primary*)	Dorothy Kelly Gay ( D ) Janet Jeghelian ( R ) Warren Tolman ( D )	Jane Swift ( R )
<b>Attorney General</b> (\$625,000 primary/ \$625,000 general)	Brad Bailey ( R ) Karen MacNutt ( R ) Thomas Reilly ( D )	Lois Pines ( D )
<b>Treasurer</b> (\$375,000 primary/ \$375,000 general)		Robert Maginn ( R ) Shannon O'Brien ( D )
<b>Secretary</b> (\$375,000 primary/ \$375,000 general)	Dale Jenkins ( R ) Norman Paley (Reform)	William Galvin ( D )
<b>Auditor</b> (\$375,000 primary/ \$375,000 general)	Michael Duffy ( R )	Joseph DeNucci ( D )

\* Because the nominees for governor and lieutenant governor run as a team after the primary, they are both included in the gubernatorial candidate's general election spending limit.

Note: Unenrolled candidates, who do not run in a primary, were required to notify OCPF whether they would abide by spending limits by Aug. 25.

At the time of the filings, OCPF estimated the amount of money in the State Election Campaign Fund that would be available to participating candidates at \$1.6 - \$1.8 million, which by statute was to be divided evenly between the primary and general election campaigns. Due to the limited amount available in the fund, OCPF advised candidates that it was likely that if two or more gubernatorial candidates became certified they would ultimately be eligible for matching funds of a fraction of the \$750,000 they would be entitled to under law and the non-gubernatorial certified candidates would not receive any public money. As noted above, four gubernatorial candidate opted for spending limits and became certified.

## **Self-imposed Limits**

Candidates who chose not to participate in the public financing system but were opposed by at least one participating candidate (those who had agreed to limits) in their primary were still required to observe some spending limits, though the exact amounts would be self-imposed.

Those candidates were required to file by June 5 a statement with OCPF stating the maximum amount that they would spend in the primary campaign. The three candidates who declined to abide by statutory limits but were each opposed by at least one candidate who had agreed to limit spending were Paul Cellucci (candidate for governor), Jane Swift (lieutenant governor) and Lois Pines (attorney general). All three candidates filed the required statements declaring the maximum amounts of their expenditures for the primary.

The spending limits of the participating candidates in those races were increased to the amounts specified by Cellucci, Swift and Pines. The amount of public funds for which those participating candidates were eligible, however, did not change.

The self-imposed limits declared by each of the three filers was:

- ?? Cellucci: \$4,000,000. The limit of his Republican primary opponent, Joseph Malone, was increased to \$4,000,000 from his previous statutory limit of \$1.5 million.
- ?? Swift: \$1,000,000. The limit of her Republican primary opponent, Janet Jeghelian, was increased to \$1,000,000 from her previous statutory limit of \$625,000.
- ?? Pines: \$1,750,000. The limit of her Democratic primary opponent Thomas Reilly, was increased to \$1,750,000 from his previous statutory limit of \$625,000.

With the filing by the three non-participating candidates, the spending limits for all candidates in the primary was set. The following chart illustrates the final limits for all primary candidates:

## Primary Election Candidates and Their Spending Limits

(statutory or self-imposed)

June 3 – Sept. 15

Democrats			Republicans	
	<i>Candidates</i>	<i>Limit</i>	<i>Candidates</i>	<i>Limit</i>
<b><i>Governor</i></b>				
	Brian Donnelly	\$1,500,000	Paul Cellucci	\$4,000,000
	Scott Harshbarger	\$1,500,000	Joseph Malone	\$4,000,000
	Patricia McGovern	\$1,500,000		
<b><i>Lieutenant Governor</i></b>				
	Dorothy Kelly Gay	\$625,000	Janet Jeghelian	\$1,000,000
	Warren Tolman	\$625,000	Jane Swift	\$1,000,000
<b><i>Attorney General</i></b>				
	Lois Pines	\$1,750,000	Brad Bailey	\$625,000
	Thomas Reilly	\$1,750,000		
<b><i>Treasurer</i></b>				
	Shannon O'Brien	No limit	Robert Maginn	No limit
<b><i>Secretary</i></b>				
	William Galvin	No limit	Dale Jenkins	\$375,000
<b><i>Auditor</i></b>				
	Joseph DeNucci	No limit	Michael Duffy	\$375,000

Two candidates who filed statements agreeing to limits on June 2, Karen MacNutt (Republican for attorney general) and Norman Paley (Reform Party for secretary of the commonwealth), did not file enough signatures to get on the primary ballot, according to the Elections Division. If MacNutt and Paley had run write-in or sticker campaigns, their statutory limits would have been \$625,000 and \$375,000, respectively.

## **Certification and Release of Funds**

On July 21 OCPF announced that four candidates for governor had submitted the minimum amount of contributions to qualify for matching public funds for the primary campaign. Each received money from the State Election Campaign Fund later that week.

Brian Donnelly, Scott Harshbarger, Joseph Malone and Patricia McGovern each submitted records of contributions totaling at least \$75,000 by the statutory deadline of July 17. The \$75,000 figure is the minimum level of contributions that must be certified by OCPF for a gubernatorial candidate to be eligible to receive public funds.

Each gubernatorial candidate who agreed to observe a spending limit and submits the minimum amount of contributions was eligible to receive up to \$750,000 in matching funds for the primary. However, the State Election Campaign Fund did not contain enough to fully fund each of the eligible candidates.

In early July, the Comptroller certified the amount that was contained in the State Election Campaign Fund on June 30 and was therefore available for distribution to candidates in 1998. According to the Comptroller, the SECF contained \$1,753,463.36 as of June 30. Under law, that amount was split in half: \$876,731.68 for the primary campaign and the same amount for the general election campaign.

The Comptroller's certification confirmed OCPF's prediction that there would not be enough money to fully fund all of the participating candidates in 1998. In fact, there was not enough to fully fund the four participating gubernatorial candidates, who under the law were to each receive their full \$750,000 primary shares, or as close that amount as possible, with any remaining funds to be distributed to participating candidates for the other five statewide offices. The entire primary allocation of the SECF was therefore divided among the gubernatorial candidates: \$219,182.92 was set aside by the Comptroller for each of the four. That amount represented less than one-third of the \$750,000 that would have been given to them under the public financing law, if the system were fully funded. The candidates for the other offices who agreed to limits did not receive any public funds for the primary campaign.

Of the gubernatorial candidates, Harshbarger, Malone and McGovern each submitted contributions that were certified to be in excess of \$219,182.92 and therefore each received the full amounts for which they are eligible in late July. The same amount was set aside for Donnelly, who was certified for \$80,954.76 and received that amount initially. Donnelly submitted additional qualifying contributions over the next six weeks to receive a total of \$139,374.74 before the primary.

## Funds Certified and Disbursed in the Primary Campaign

<i>Candidate</i>	<i>Office Sought</i>	<i>Amount Certified/Disbursed</i>	<i>Amount Uncertified</i>
Brian Donnelly	Governor	\$139,374.74	\$79,808.18
Scott Harshbarger	Governor	\$219,182.92	--
Joseph Malone	Governor	\$219,182.92	--
Patricia McGovern	Governor	\$219,182.92	--
TOTAL		\$796,923.50	\$79,808.18

The \$79,808.18 remaining after distribution reverted to the State Election Campaign Fund for distribution in the general election campaign.

## VII. The General Election

Though the general election campaign did not officially start until the day after the Sept. 15 primary, all candidates had previously made their intentions known regarding whether they would comply with spending limits. The statements filed by each candidates in June stating whether they agreed to spending limits were binding for both the primary and general elections. On August 25, the five unenrolled candidates who were seeking statewide office filed statements saying whether they intended to limit their spending in the 1998 general election.

Four of the five unenrolled candidates -- Libertarians Dean Cook (candidate for governor), Elias Israel (lieutenant governor), David Atkinson (secretary) and Carla Howell (auditor) -- did not agree to abide by spending limits. The fifth, Libertarian Merton Baker (treasurer), did agree to limits.

All that remained before the expenditure limits for the general election were set was the filing on Sept. 21 of maximum spending declarations by statewide candidates who were not participating in the public financing program, but were opposed by participating candidates.

Ten candidates on the Nov. 3 ballot, who were opposed by candidates who had previously agreed to observe spending limits, filed the required statements of maximum expenditures for the general election. If applicable, participating candidates' limits for the election period (Sept. 16-Nov. 3, Aug. 26-Nov. 3 for unenrolled candidates) were raised to the highest amount cited by a non-participating candidate in that race.

In three of the five races, the highest estimate was filed by the Libertarian candidate. In a symbolic action meant to protest public funding of campaigns, each Libertarian candidate declared the same limit in the races for Governor/Lieutenant Governor, Secretary and Auditor: \$19,514,800,000, which was also the total amount of the annual state budget. The limits for all candidates in those races were increased to \$19.5 billion.

The ceiling cited by the Libertarians meant that, in effect, there was no limit on spending in those three races. No statewide candidate in Massachusetts had ever raised or spent \$1 billion, \$100 million, or even \$10 million in the seven-week period between the primary and general elections.

The limits in the other two races were significantly lower.

In the race for Attorney General, the spending limit was \$625,000, the amount set by statute. Both nominees, Brad Bailey and Thomas Reilly, had agreed to observe that limit in June.

In the treasurer's race, the limit was \$1,600,000, which represents the figure filed by Robert Maginn. Merton Baker, the Libertarian candidate, agreed to limits in August, but Maginn and Shannon O'Brien did not.

## **Spending Limits for the 1998 General Election**

(Sept. 16 – Nov. 3)

<i>Candidate/team</i>	<i>Declared/statutory limit</i>
<b><u>Governor/Lt. Governor</u></b>	
Paul Cellucci/Jane Swift ( R )	self-imposed limit of \$5,000,000
Scott Harshbarger/Warren Tolman ( D )	statutory limit of \$1,500,000
Dean Cook/Elias Israel (L)	self-imposed limit of \$19,514,800,000
<i>Limit for each team: \$ 19,514,800,000</i>	
<b><u>Attorney General</u></b>	
Brad Bailey ( R )	statutory limit of \$625,000
Thomas Reilly ( D )	statutory limit of \$625,000
<i>Limit for each candidate: \$ 625,000</i>	
<b><u>Treasurer</u></b>	
Merton Baker ( L )	statutory limit of \$375,000
Robert Maginn ( R )	self-imposed limit of \$1,600,000
Shannon O'Brien ( D )	self-imposed limit of \$1,000,000
<i>Limit for each candidate: \$ 1,600,000</i>	

**Secretary**

David Atkinson ( L )

self-imposed limit of \$19,514,800,000

William Galvin ( D )

self-imposed limit of \$975,000

Dale Jenkins ( R )

statutory limit of \$375,000

*Limit for each candidate: \$ 19,514,800,000***Auditor**

Joseph DeNucci ( D )

self-imposed limit of \$975,000

Michael Duffy ( R )

statutory limit of \$375,000

Carla Howell ( L )

self-imposed limit of \$19,514,800,000

*Limit for each candidate: \$ 19,514,800,000***Release of Funds**

As noted above, a total of \$1,753,463.36 was available to candidates for the 1998 election, to be split in half (\$876,731.68) between the primary and general election campaigns. All of the primary share but \$79,808.18 was distributed in the primary campaign, and that remainder was rolled over for use in the general campaign. Thus a total of \$956,539.86 was available for certified candidates on the November ballot.

The sole gubernatorial candidate participating in the public financing system after the primary was Scott Harshbarger, the winner of the Democratic primary. Unlike the primary, where matching funds were available only to gubernatorial candidates, there were funds available for other candidates in the general election campaign. Distributing the full share of \$750,000 to the sole participating gubernatorial candidate, Harshbarger, still left money for four qualified candidates for the other statewide seats.

Harshbarger had already submitted the required qualifying contributions to receive a full gubernatorial public financing share of \$750,000 for the general election campaign. Five candidates – Brad Bailey, Thomas Reilly, Merton Baker, Dale Jenkins and Michael Duffy – were eligible to share the remaining \$206,539.86 equally, provided they submitted qualifying contributions in at least the statutory amounts by Oct. 2.

Five candidates -- Harshbarger, Bailey, Reilly, Jenkins and Duffy -- each submitted the required amount of qualifying contributions to become certified to receive matching funds for the general election. (The other candidate who agreed to observe limits and was in a contested campaign race, Baker, did not apply for any matching funds.)

Harshbarger submitted enough qualifying contributions to receive the full amount to which he was entitled under law for the general campaign: \$750,000. His account received \$718,466.40 the same week, which was added to \$31,533.60 in public funds he had remaining in



his account from the primary. With \$219,182.92 received during the primary, Harshbarger received a total of \$937,649.32 in public funds for the 1998 campaign.

The amount received by Harshbarger was by far the largest ever given to one candidate in the two-decade history of the Massachusetts public financing program. That was due primarily to the 1994 changes in the law that increased the amounts of public funds that could be received, provided for full funding of gubernatorial candidates before those for other offices, and increased funds available for distribution from the SECF by switching to an income tax check-off.

For the general election, Bailey, Reilly and Duffy each received \$51,635.03 in matching funds, which was the maximum amount that was originally set aside for them. Jenkins was certified to receive \$38,200.00 immediately, but was eligible to receive the remaining \$13,435.03 set aside for him if he submitted more qualifying contributions by Oct. 16. Jenkins submitted matching funds to receive an additional \$11,200, for a total allocation of \$49,320.00.

Warren Tolman, the Democratic nominee for lieutenant governor and Harshbarger's running mate, could be considered to have been eligible to receive public funds because he had agreed to spending limits in June, won his primary and was now in a contested general election race. However, public funds for the general election are distributed to a candidate team (provided both candidates had agreed to limits) and wired to the depository account of the gubernatorial candidate. Much of the funds distributed to Harshbarger could be considered to have benefited Tolman as well, though for the purpose of this report, Harshbarger, not Tolman, is considered the recipient of public funds.

### **Funds Certified and Disbursed in the General Election Campaign**

<i>Candidate</i>	<i>Office Sought</i>	<i>Amount Certified/Disbursed</i>	<i>Amount Uncertified</i> <sup>1</sup>
Scott Harshbarger <sup>2</sup>	Governor	\$ 718,466.40 <sup>3</sup>	--
Brad Bailey	Attorney General	51,635.03	--
Thomas Reilly	Attorney General	51,635.03	--
Dale Jenkins	Secretary	49,320.00	\$2,315.03
Michael Duffy	Auditor	51,635.03	--
<b>TOTAL</b>		<b>\$ 922,691.49</b>	<b>\$2,315.03</b>

<sup>1</sup> These unexpended funds reverted to the State Election Campaign Fund.

<sup>2</sup> For the general election, funds were distributed to the Harshbarger/Tolman candidate team, though they were deposited in Harshbarger's campaign account.

<sup>3</sup> Harshbarger's statutory allotment of \$750,000 was reduced by the amount still remaining in his primary account, which totaled \$31,533.60.

Only one of the eight candidates who received public funds in 1998, Reilly, won election. (Another of the eight, Harshbarger, won the Democratic primary but lost the general election.) Reilly was also the only successful candidate of the 13 who agreed to spending limits.

The general election distributions brought the total amount of public money allocated in 1998 to \$1,719,614.99: \$796,923.50 distributed in July and August to four candidates in the primary campaign, and \$922,691.49 distributed to five candidates in the general election campaign.

After the final disbursement in October, the 1998 SECF accounts contained \$33,848.63 in unclaimed funds. Of that amount, \$31,533.60 was the amount that normally would have gone to Harshbarger as part of the full \$750,000 allotment, but was held back because the campaign had an identical amount left over from the primary campaign. The remaining \$2,315.03 that was returned to the SECF represented funds that were set aside for Jenkins but were not certified for distribution because he did not submit enough in matching contributions.

The following are the allotments of public funds for the general election and the overall totals:

### **Total Public Funds Received in 1998**

<i>Office/ Candidate</i>	<i>Primary</i>	<i>General</i>	<i>Total</i>
<b>Governor</b>			
Brian Donnelly	139,374.74	0	139,374.74
Scot Harshbarger	219,182.92	718,466.40	937,649.32
Joseph Malone	219,182.92	0	219,182.92
Patricia McGovern	219,182.92	0	219,182.92
<b>Lt. Governor</b>			
Dorothy Kelly Gay	0	0	0
Janet Jeghelian	0	0	0
Warren Tolman	0	0	0
<b>Attorney General</b>			
Brad Bailey	0	51,635.03	51,635.03
Thomas Reilly	0	51,635.03	51,635.03
<b>Secretary</b>			
Dale Jenkins	0	49,320.00	49,320.00
<b>Auditor</b>			
Michael Duffy	0	51,635.03	51,635.03
<b>TOTAL</b>	<b>\$796,923.50</b>	<b>922,691.49</b>	<b>\$1,719,614.99</b>

Because of the varying levels of fundraising, the percentage of total receipts made up of public funds differed for each candidate:

## Public Funds As Percentage Of Funds Raised

<i>Candidate</i>	<i>Office Sought</i>	<i>Total Public Funds Received</i>	<i>Total Public and Private Funds</i>	<i>% Public Funds to Total Received</i>
Brian Donnelly	Governor	139,374.74	576,028.10	24.19
Scott Harshbarger	Governor	937,649.32	4,996,576.68	18.76
Joseph Malone	Governor	219,182.92	3,286,409.42	6.66
Patricia McGovern	Governor	219,182.92	1,608,532.52	13.62
Brad Bailey	Attorney General	51,635.03	575,056.74	8.97
Thomas Reilly	Attorney General	51,635.03	1,798,555.18	2.87
Dale Jenkins	Secretary	49,320.00	133,302.71	36.99
Michael Duffy	Auditor	51,635.03	353,252.04	14.61
<b>Total</b>		1,719,614.99	13,327,713.39	12.9

## VIII. Conclusion

The 1994 public finance program was administered under a set of rules that had been in place for several election cycles. Even before that election year was over, however, the Legislature enacted Chapter 43 of the Acts of 1994, which mandated several changes to the public financing system. These changes were implemented by OCPF and the four other agencies mentioned, and the new rules were implemented for the first time during the most recent election cycle.

These changes, as discussed in this report, were in place for only one election cycle. In November 1998, the voters passed the "Clean Elections Initiative", which will be implemented for the 2002 election cycle. Once again, the rules will change. OCPF will continue its mission to interpret the statute, educate candidates and the public, and develop a system that is workable and equitable for all candidates.

There are many issues to be settled in the intervening years. Among these issues are whether adequate public funds will be available -- and if not, how available funds will be allocated -- how electronic disclosure of candidate activity will be implemented, who will certify qualifying contributions, and many others.

As it has in the past, OCPF is ready to work cooperatively with the other agencies involved in administering the public finance program to find the necessary balance to ensure successful implementation of this initiative.